

## REMARKS

Reconsideration and allowance of the subject application are respectfully solicited.

Claims 1, 3, 6 through 10, 12, and 15 through 20 are pending, with Claims 1 and 10 being independent. Claims 4, 5, 13, and 14 have been cancelled without prejudice. Claims 1, 3, 8, 10, 12, and 17 have been amended. With respect to the amendments, Applicant respectfully directs the Examiner's attention to, e.g., encoding units 2902 and 2903 (Fig. 29) and optimum encoded audio data determination unit 2904 and encoded audio data output unit 2905 (Fig. 29), and pp. 29-30 of the specification, for example; of course, the claims are not limited to the disclosed embodiments.

Claims 1, 3 through 10, and 12 through 19 yet again were variously rejected under 35 U.S.C. §§ 102 and 103 over US 2001/0048770 A1 (Maeda) in view of US 6,393,393 B1 (Kawahara), and further in view of JP-A 2001-230947 ("JP '947"). All rejections are respectfully traversed.

Claims 1 and 10 variously recite, *inter alia*, outputting the encoded audio data encoded by a predetermined one of the first audio data encoding means or step and the second audio data encoding means or step in a case that the image encoding setting means or step does not effect the setting of the encoding, and comparing the encoded audio data encoded by the first audio data encoding means or step and the encoded audio data encoded by the second audio data encoding means or step to output the encoded audio data exhibiting higher acoustic quality in accordance with a comparison result in a case that the image encoding setting means or step effects the setting of the encoding.

However, Applicant respectfully submits that none of Maeda, Kawahara, and JP '947, even in the proposed combination, assuming, *arguendo*, that the documents could be combined, discloses or suggests at least the above-discussed claimed features as recited, *inter alia*, in Claims 1 and 10.

Applicant respectfully submits that Maeda discloses, e.g., that when

MPEG4-encoded data is input, texture data and object shape data of the input MPEG4-encoded data are decoded, while encoded audio data included therein is stored in a buffer without being decoded (e.g., Fig. 24), and when the decoded texture data is encoded in accordance with the JPEG2000 method, data of a background object set as an ROI is bit-shifted to upper bit planes so that the encoded audio data of one frame, stored in the buffer, is stuffed into blank fields generated by the bit shift process (i.e., the blank field is merely filled with the already-encoded audio data) — in other words, Maeda merely shows, e.g., that bit plane composition unit 13 merely stuffs the buffered already-encoded audio data of one frame into encoded moving image data of JPEG2000, i.e., merely stuffing into a blank space produced due to upper-bit shift (i.e., merely filling a vacant space with audio data). Accordingly, Applicant respectfully submits that Maeda is completely silent at least as to the above-discussed claimed features as recited, *inter alia*, in Claims 1 and 10.

The Official Action acknowledges deficiencies of Maeda and thus relies upon Kawahara. Applicant respectfully submits that Kawahara relates to, e.g., MPEG audio data, and shows, e.g., changing code amount allocation to provide high quality to some of sub bands — but Kawahara is ***completely silent*** as to any relation between encoding the MPEG audio data and an image (i.e., a moving image) and thus fails to disclose or suggest at least the above-discussed claimed features. Thus, even if Maeda and Kawahara could be combined, Applicant submits that the combination would fail to disclose or suggest at least the above-discussed claimed features.

It is further respectfully submitted that there has been no showing of any indication of motivation in the cited documents that would lead one having ordinary skill in the art to arrive at such features.

The dependent claims are also submitted to be patentable because they set forth additional aspects of the present invention and are dependent from independent claims

discussed above. Therefore, separate and individual consideration of each dependent claim is respectfully requested.

Applicant submits that this application is in condition for allowance, and a Notice of Allowance is respectfully requested.

Applicant's undersigned attorney may be reached in our Washington, D.C. office by telephone at (202) 530-1010. All correspondence should continue to be directed to our address given below.

Respectfully submitted,

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